

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

UNITED STATES OF AMERICA,	§	
Plaintiff	§	
v.	§	CIVIL ACTION NO.
	§	
GLOCK, INC., CAL: 9, MODEL: 26,	§	
SN: BEDL089; AND 40 ROUNDS OF	§	
ASSORTED AMMUNITION	§	
Defendants.	§	

COMPLAINT FOR FORFEITURE IN REM

The United States of America files this action for forfeiture and alleges upon information and belief:

Nature of the Action

1. This action is brought by the United States of America seeking forfeiture of the following property pursuant to 18 U.S.C. § 924(d)(1):

(1) One Glock Inc., 9 Caliber, Model: 26, serial number BEDL089; and

(2) 40 Rounds of Assorted Ammunition.

(Collectively, the “Defendant Firearm and Ammunition”)

2. On or about September 27, 2017, law enforcement seized the Defendant Firearm and Ammunition from Eduardo Villanueva in Houston, Texas. The Defendant Firearm and Ammunition are in the custody of the Bureau of Alcohol, Tobacco, Firearms and Explosives (“ATF”).

3. Jody Allen Cantu filed an administrative claim to the Defendant Firearm and Ammunitions with ATF, so the United States seeks judicial forfeiture.

Jurisdiction and Venue

4. This Court has subject-matter jurisdiction pursuant to 28 U.S.C. §§ 1345 and 1355.

5. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1355(b)(1), 1391(b), and 1395.

Statutory Basis for Forfeiture

6. The Defendant Firearms and Ammunition are subject to forfeiture under 18 U.S.C. § 924(d)(1), which provides for the forfeiture of any firearm or ammunition involved in or used in any knowing violation of 18 U.S.C. § 922(g).

7. Under Section 922(g)(1), it is unlawful for a person who has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year to ship or transport in interstate or foreign commerce, or possess in or affecting commerce, any firearm or ammunition; or to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.

8. Under Section 922(g)(9), it is unlawful for a person who has been convicted in any court of a misdemeanor crime of domestic violence to ship or transport in interstate or foreign commerce, or possess in or affecting commerce, any firearm or ammunition; or to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.

Facts

9. On September 27, 2017, law enforcement executed a Federal Arrest Warrant for Eduardo Villanueva (“Villanueva”) at his residence in Houston, Texas. During a consensual search of Villanueva’s residence, law enforcement recovered a Glock Inc., 9 Caliber, Model: 26 (Defendant Firearm) and 40 rounds of assorted ammunition. The Defendant Firearm was found

on the kitchen counter in close proximity to various types of narcotics; and loaded with one round of ammunition in the chamber and nine rounds of ammunition in an inserted magazine.

10. Villanueva has a prior criminal history, including but not limited to a 2011 conviction in the 248th District Court of Harris County, Texas, for Attempted Retaliation or Obstruction; a 2006 conviction in the 185th District Court of Harris County, Texas, for Unauthorized Use of a Motor Vehicle; a 2007 conviction in the 232nd District Court of Harris County, Texas, for Unauthorized Use of a Motor Vehicle; and a 2007 conviction in the 232nd District Court of Harris County, Texas, for Possession of a Firearm. Each of these crimes are punishable by imprisonment for a term exceeding one year. As a convicted felon, Villanueva possessed the Defendant Firearm and Ammunition in violation of 18 U.S.C. § 922(g)(1).

11. Jody Allan Cantu (“Cantu”) is the alleged owner of the Defendant Firearm and Ammunition. Cantu has a prior criminal history, including but not limited to a 2009 conviction in County Court at Law 5 of Harris County, Texas, for Assault Family Violence. As a person who has been convicted in any court of a misdemeanor crime of domestic violence, Cantu cannot possess the Defendant Firearm and Ammunition pursuant to 18 U.S.C. § 922(g)(9).

12. An ATF agent has examined the Defendant Firearm and Ammunition and determined that they were not manufactured in the State of Texas and they, therefore, have traveled in or affected interstate and/or foreign commerce.

13. The Defendant Firearm and Ammunition are subject to forfeiture because they were involved in a knowing violation of 18 U.S.C. §§ 922(g)(1) and 922(g)(9).

Notice to Any Potential Claimants

YOU ARE HEREBY NOTIFIED that if you assert an interest in the Defendant Firearms and Ammunition which are subject to forfeiture and want to contest the forfeiture, you must file a verified claim which fulfills the requirements set forth in Rule G of the Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions. A verified claim must be filed no later than thirty-five (35) days from the date this Complaint has been sent to you. An answer or motion under Rule 12 of the Federal Rules of Civil Procedure must be filed no later than twenty-one (21) days after filing the claim. The claim and answer must be filed with the United States District Clerk for the Southern District of Texas at United States Courthouse, 515 Rusk, Houston, Texas 77002, and a copy must be served upon the undersigned Assistant United States Attorney at the United States Attorney's Office, 1000 Louisiana, Suite 2300, Houston, Texas 77002.

Requested Relief

Wherefore, the United States of America prays that a judgment of forfeiture be entered against the Defendant Properties and in favor of the United States of America pursuant to 18 U.S.C. § 924(d)(1) and for any such further relief as this Honorable Court deems just and proper.

Respectfully submitted,

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Verification

I, Shelby Hamilton, a Special Agent with the Bureau of Alcohol, Tobacco, Firearms and Explosives (“ATF”), hereby verify under penalty of perjury, pursuant to 28 U.S.C. § 1746, that the facts set forth in paragraphs 4-7 in the foregoing Complaint for Forfeiture In Rem are true and correct to the best of my knowledge and belief.

Executed on March 1, 2018.

Shelby Hamilton
Special Agent
Bureau of Alcohol, Tobacco, Firearms and Explosives